

Auctions during COVID-19

Question

Many auctioneers have asked as to how and when they can conduct live auctions with other than real estate involved, i.e. personal property, equipment, vehicles, etc. When can auctioneers expect to be able to conduct live personal property auctions?

This guidance applies to auctions for property other than real property or livestock auctions, which are presently permitted to proceed under existing Executive Orders as long as the same may proceed safely. The reopening process recently announced by Governor Beshear and the Kentucky Department for Public Health envisions a three phase approach, as informed by guidance received from the federal government. The federal guidance for Phase 1 contemplates groups of up to 10 gathering, Phase 2 up to 50, and no hard cap at Phase 3 (though the federal guidance also provides that time spent in crowded environments should be minimized). There is also special guidance for at-risk groups. Kentucky specific plans have not yet been announced; however, it is anticipated that it will be similar to the federal guidance. So, depending on the size of the Auction (and what protective steps could be taken), subject to confirmation by the Department for Public Health, we anticipate that small auctions of up to 10 people could possibly occur in Phase 1, moderate size auctions of up to 50 could occur in Phase 2, and larger auctions can proceed in Phase 3. The federal guidelines suggest fourteen (14) days of declining new cases before initiating Phase 1. This, however, is subject to change or refinement based on Executive Orders, Cabinet Orders, and Orders from the Department for Public Health.

Kentucky has not yet entered Phase 1, and it is unclear when that will occur. Once it does, there will still likely be a practical limitation of 10 people, and those in at risk groups (over 60 or having underlying health conditions) should not attend auctions. Those that do attend would likely have to have protective equipment (i.e. masks and gloves) and sanitation measures would have to be taken. In Phase 2, it likely broadens to a bigger group of up to 50. If social distancing (i.e. 6 feet apart) cannot be achieved, then protective equipment (i.e. masks and gloves) will be needed. At-risk groups should still not attend. Once Kentucky is in Phase 3, there is likely no absolute limitation on number of attendees, but vulnerable folks should utilize protective equipment (mask and gloves) if they attend, and appropriate measures should be implemented to ensure safety. And of course in all scenarios, anyone who is ill must absolutely not attend.

Additionally, the Department for Public Health is entertaining reopening proposals on the “Healthy at Work” website from industry groups and individual business. So, individual operations can apply through the website, and can explain what protective measures they are proposing to protect the health of those that might attend. Obviously, the key is safety and to prevent a re-emergence of the virus once new cases are declining. There is also an option for professional associations to submit industry-wide reopening plans.

The above is merely intended to be a summary of the currently contemplated reopening plans, and all the above guidance is subject to amendment depending on further orders received from the Governor, the Cabinet, or the Department for Public Health. As such, a definitive startup date cannot be reported yet, as that will likely be officially established through Executive Orders. Updates will be reported promptly to the Boards and KREA staff will post updated guidance on the websites as possible.

The Healthy at Work website is available here: <https://govstatus.egov.com/ky-healthy-at-work>

The three phase plan from the Federal perspective is available here: <https://www.whitehouse.gov/openingamerica/>